

**CHARTER COMMISSION
CITY AND COUNTY OF HONOLULU
711 Kapiolani Blvd. Suite 1485
Honolulu, Hawaii 96813**



**TUESDAY, JANUARY 31, 2006
MISSION MEMORIAL BUILDING
PLANNING CONFERENCE ROOM
CITY ANNEX BUILDING
550 S. KING STREET
(RED BRICK BUILDING MAKAI OF MISSION MEMORIAL AUDITORIUM)
2:00 p.m.**

MINUTES

Charter Commission Members Present:

Donn M. Takaki
Jeffrey T. Mikulina (Late 2:17)
Andrew Chang
Jerry Coffee
E. Gordon Grau
Amy Hirano
Jared Kawashima (Late 2:50 p.m.)
Darolyn H. Lendio
Stephen Meder
Jim Myers (Late 2:02 p.m.)
James Pacopac
Malcolm J. Tom – (Late 2:30 p.m.)
Jan Sullivan (Late – 2:15 p.m.)

Others Present:

Chuck Narikiyo, Executive Administrator, Charter Commission
Lori K. K. Sunakoda, Deputy Corporation Counsel, Department of Corporation Counsel
Dawn Spurlin, Deputy Corporation Counsel, Department of Corporation Counsel
Loretta Ho, Secretary, Charter Commission
Nicole Love, Researcher, Charter Commission

1. Call to Order

Chair Donn Takaki called the meeting to order at 2:00 p.m. on January 31, 2006. Chair Takaki went over housekeeping rules and stated that testimony will be limited to three minutes due to the large number of testifiers and must be related to the agenda.

(COMMISSIONER MYERS ARRIVED)

2. Executive Administrator's Report

Executive Administrator Narikiyo reported there are 10 proposals and 9 supermajority proposals on the agenda, the fourth of five groups. After last week's meeting the Commission decided to split up the fourth batch of proposals to have two shorter meetings. Executive Administrator Narikiyo noted they have posted the new list on the Commission website, notified their e-mail list, advised Council and Administration, and sent letters to submitters on the lists. The last batch, which has 15 proposals, would be on the agenda for the next meeting scheduled for February 7, 2006.

Executive Administrator Narikiyo then covered the March public outreach meetings and advised the Commissioners the dates and place reserved. The tentative dates and locations are as follows:

March 14, 2006 – Kapolei Hale
March 21, 2006 – Kailua High School
March 28, 2006 – Kaiser High School

Executive Administrator Narikiyo went on to say he would like to get the Commissioners' format and structure at the next meeting. He also would like to get thoughts about publicity at the next meeting.

Executive Administrator Narikiyo stated that following the January 24, 2006 meeting, the budget has been adjusted compared to the budget request previously submitted by Commissioner Myers to Council Chair Dela Cruz.

3. Discussion and Action – Initial Discussion and Vote on Proposal Items:

DISCUSSION:

A. RELATING TO CITY COUNCIL

1. [PROPOSAL 1](#) - Salary Commission; Amend provision regarding Council review of Commission findings.

The following individuals testified:

1. Tom Brower, Executive Secretary, Honolulu Salary Commission
2. Tom Heinrich
3. Attilio Leonardi, Retired Fire Chief, Honolulu Fire Department (Support)
4. Lee Donohue, Retired Chief, Honolulu Police Department (Support)

Written testimony:

1. Peter Carlisle, Prosecuting Attorney, Department of the Prosecuting Attorney (Support)
2. Attilio Leonardi, Retired Fire Chief, Honolulu Fire Department (Support)
3. Barbara Marshall, Councilmember, Honolulu City Council (Support)
4. Lee Donohue, Retired Chief, Honolulu Police Department (Support)
5. Robert Kamemoto, Vice Chair, Salary Commission

Tom Brower testified in support on behalf of the Salary Commission. He stated the Salary Commission held their first meeting this year on January 27, 2006 and would like to discuss this proposed charter amendment at its next Commission meeting scheduled in mid-February. He advised at that time they would further discuss the proposed charter amendment and submit a more detailed position on the amendment.

Tom Heinrich testified in support for further public hearing and as Tom Brower stated further consideration and input by the Salary Commission. He stated on the general concept he is opposed to the proposal, because he believes we should maintain the Legislative Branch review of what is proposed by the Salary Commission and provide public input.

Retired Fire Chief Attilio Leonardi testified in support. He read his written testimony into the record. Commissioner Lendio stated concerns and asked Chief Leonardi, what if the Salary Commission doesn't give the level of salary they feel they deserve because they set the salary levels at a certain level? She went on to say she's afraid there are no checks and balances in that situation, and understands contrary to past history where they know factually what had happened in the past. Commissioner Lendio asked Chief Leonardi what if the Salary Commission was not listening to his request and setting the raises lower than what the Council would give? Chief Leonardi responded he can see that happening, but that has never been the case as far as he can remember. He went on to say the Council has been fine with what the Salary Commission has offered, but recently they have not. Chief Leonardi stated there have been times they have not had a raise, while other agencies have received raises and they are unable to catch up. He went on to say the key problem is they can't get qualified people to step up to the plate, such as Battalion Chiefs who qualify to be Assistant Chiefs but choose not to because of the pay; this has become a major problem for the Honolulu Fire Department.

(COMMISSIONERS SULLIVAN AND MIKULINA ARRIVED)

Retired Police Chief Lee Donohue testified in support. He stated he dittos retired Fire Chief Leonardi's statement earlier. Chief Donohue highlighted his written testimony. He testified the salary of the Chief of the Honolulu Police Department is considerably lower than his counterparts in California, Nevada and Arizona. Chief Donohue also stated he has personally witnessed how elected officials have gone on record against pay raises for department heads and deputy department heads because it was politically correct. He stated the average tenure of a Major City Chief of Police is three years. Chief Donohue supports Mr. Leonardi's testimony, in which he suggested to have the respective commission to be responsible in making pay raise recommendations since they give the Chief's performance evaluation. He noted it's important because the chiefs of the Honolulu Police and Fire departments are two of the most visible people in public safety, and HPD is the primary law enforcement agency in the state.

Chair Takaki asked Chief Donohue how many people do the Salary Commission recommends the pay raise for. Chief Donohue responded it's noted in the proposal and includes all elected city officials, including Mayor, Councilmembers, Prosecuting Attorney, and the following appointed officials: the managing director, the deputy managing director, and about 40-50 directors and department heads and the band director.

2. **PROPOSAL 53** - City Council; Allow the Council to designate which Councilmember will serve as Council chair and presiding officer pro tempore when both the chair and vice-chair are absent or disabled.

The following individuals testified:

1. Tom Heinrich

Written testimony:

1. Donovan Dela Cruz, Council Chair, Honolulu City Council (Support)

Tom Heinrich testified in support. He stated it's consistent with OIP opinions, which are making it increasingly difficult for any board, commission or legislative body to meet without having an agenda 6 days in advance. Mr. Heinrich stated having this flexibility proposed would be useful.

3. **PROPOSAL 54** - Ordinances; Clarify that amendments to existing codified ordinances may be made by the City Council by reference to the codified provisions, rather than by reference to the numbered ordinances that may be

enacted.

The following individuals testified:

1. Tom Heinrich

Written testimony:

1. Donovan Dela Cruz, Council Chair, Honolulu City Council (Support)

Tom Heinrich testified in support. He stated as a past staff attorney with the State Senate he had difficulties with the City and County of Honolulu's ordinances when preparing proposed bills and provide reports for the Committee Reports. Mr. Heinrich noted the easiest thing to do is to refer to the Ordinance section when preparing bills and feels this is an appropriate proposed amendment to the charter.

4. [**PROPOSAL 61**](#) - Councilmember terms; Change the beginning time of the terms of Councilmember.

The following individuals testified:

1. Tom Heinrich

Written testimony:

NONE

Tom Heinrich testified in support. He stated it matches the States Constitution's provision stating the Legislature convenes on the particular third Wednesday of the month. Mr. Heinrich feels this is a good change and everything will be more consistent in the activities of the City Council.

5. [**PROPOSAL 62**](#) - Council Resolutions; Modify the requirement that resolutions be read in full except by unanimous consent.

The following individuals testified:

1. Tom Heinrich

Written testimony:

NONE

Tom Heinrich testified in support. He stated he supports the proposal but not the requirement of at least four members; he does not have a problem with there being just two members since the Council only has 9 members. Mr. Heinrich went on to say the proposal is requiring of the maximum minority for something to be read and

further the debate, and stated if the proposal is moved forward he would like to offer changes to the language.

ACTION:

A. RELATING TO CITY COUNCIL

1. **PROPOSAL 1** - Salary Commission; Amend provision regarding Council review of Commission findings.

ACTION – Proposal 1 to move on for further consideration – motion passed.

Moved by Commissioner Lendio, seconded by Commissioner Pacopac. Discussion followed.

Commissioner Meder commented that when reading the proposal, he was moved to think the Charter should have an empowered review of the Salary Commission's recommendations. But after hearing testimony, he was brought to another conclusion and will be voting in support of the proposal.

Chair Takaki asked if Mr. Brower was still in the audience and he was not.

AYES: TAKAKI, CHANG, COFFEE, GRAU, HIRANO, LENDIO, MEDER,
MYERS, PACOPAC, SULLIVAN - 10
ABSTAIN: MIKULINA - 1
NOES: NONE - 0
EXCUSED: KAWASHIMA, TOM - 2

2. **PROPOSAL 53** - City Council; Allow the Council to designate which Councilmember will serve as Council chair and presiding officer pro tempore when both the chair and vice-chair are absent or disabled.

ACTION – Proposal 53 to move on for further consideration – motion passed.

Moved by Commissioner Lendio, seconded by Commissioner Myers. No discussion followed.

Chair Takaki commented this proposal reminds him of housekeeping proposals and asked how many housekeeping proposals would the Commission forward to the electorate versus more substantive proposals.

AYES: CHANG, COFFEE, GRAU, HIRANO, LENDIO, MEDER, MIKULINA,
MYERS, PACOPAC, SULLIVAN - 10

NOES: TAKAKI - 1
EXCUSED: KAWASHIMA, TOM - 2

3. **PROPOSAL 54** - Ordinances; Clarify that amendments to existing codified ordinances may be made by the City Council by reference to the codified provisions, rather than by reference to the numbered ordinances that may be enacted.

ACTION – Proposal 54 to move on for further consideration – motion passed.

Moved by Commissioner Lendio, seconded by Commissioner Mikulina. No discussion followed.

AYES: CHANG, COFFEE, GRAU, HIRANO, LENDIO, MYERS, PACOPAC - 7
NOES: TAKAKI, MEDER, MIKULINA, SULLIVAN - 4
EXCUSED: KAWASHIMA, TOM – 2

4. **PROPOSAL 61** - Councilmember terms; Change the beginning time of the terms of Councilmember.

ACTION – Proposal 61 to move on for further consideration – motion passed.

Moved by Commissioner Lendio, seconded by Commissioner Myers. Discussion followed.

Commissioner Grau commented, as Chair Takaki mentioned earlier, there are a lot of housekeeping matters versus important issues.

Commissioner Myers agreed there are a lot of housekeeping items, but will be voting in support of this proposal. He would like to see how many housekeeping matters they have in the end before the Commission would decide whether or not they would consider any particular one.

Chair Takaki commented he feels there are a lot of housekeeping matters moving forward and would restrict his voting for proposal that are substantive and reminded the Commission the City Council can also put Charter amendments on the ballot as well.

AYES: CHANG, COFFEE, HIRANO, LENDIO, MEDER, MIKULINA, MYERS, PACOPAC - 8
NOES: TAKAKI, GRAU, SULLIVAN - 3
EXCUSED: KAWASHIMA, TOM – 2

5. **PROPOSAL 62** - Council Resolutions; Modify the requirement that resolutions be read in full except by unanimous consent.

ACTION – Proposal 62 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Myers. Discussion followed.

Chair Takaki asked Councilmember Okino how often does the Council have to read all the resolutions in full. Councilmember Okino responded he's been on the City Council over five years now and he doesn't think there's has been any occasion where the City Council had to read the Resolutions in full.

Commissioner Lendio commented it would be superfluous if they let the proposal move forward; if it's not a problem why fix it.

Commissioner Coffee asked if the Commission knew its origin and if it came from the City Council. Chair Takaki responded the Commission does not know the identity of any of the people who put forward the proposal. Chair Takaki went on to say if the proposers chose to testify before the Commission they could educate the Commission on this proposal, but the Commission doesn't know it's origin.

AYES: NONE - 0

NOES: TAKAKI, CHANG, COFFEE, GRAU, HIRANO, LENDIO, MEDER,
MIKULINA, MYERS, PACOPAC, SULLIVAN, – 11

EXCUSED: KAWASHIMA, TOM – 2

DISCUSSION:

B. RELATING TO REORGANIZATION – Dividing/Merging Departments

1. **PROPOSAL 20** - Department of Planning and Permitting; Undo the combination of the previously separated department.

The following individuals testified:

1. Jeff Coelho, Managing Director
2. Henry Eng, Director, Department of Planning and Permitting
3. Councilmember Gary Okino
4. Tom Heinrich
5. Shannon Wood

Written testimony:

1. Jeff Coelho, Managing Director

2. Henry Eng, Director, Department of Planning and Permitting

Jeff Coelho testified in opposition. Mr. Coelho stressed the importance of fully considering the ramifications of reorganization and the cost factor. He went on to say the city is a complex operational unit and reorganization would be costly just to evaluate. Mr. Coelho stated the city just reorganized within the last few years and one would have to ask if the reorganization had enough time to really take effect to all the different departments. He feels some departments are much easier to change than others, and cautioned the Commission about mandating another reorganization regarding the cost involved and he doesn't feel there has been enough time to realize the cost savings that were envisioned from the previous reorganization of the city. Mr. Coelho went on to say to look at all the departments and how they all intertwine, and emphasized that some department make much more sense in the way they are structured now, and there's always room for improvement within a department as well as within the city. He asked to Commission to be cautious of spending taxpayer dollars on reorganization that would set the city back further than making the operations of the city more efficient which should be desired goal of any type of reorganization.

Commissioner Myers noted the Mayor has power to reorganize the departments and asked Mr. Coelho if it is within the Mayor's power to split these two departments apart as proposed. Mr. Coelho responded he would have to defer to Corporation Counsel, but stated it is his understanding that it is possible. Commissioner Mikulina commented the proposed amendment submitter believes there is an inherent conflict of interest between having planning and permitting under the same department, and he asked Mr. Coelho if felt it was a conflict or how he would reconcile the submitter's beliefs. Mr. Coelho responded he doesn't think it's a conflict; in order to do the permit process correctly, it needs to involve the planning process, which is a multi-stage function to getting to a permitting process for permitted use. Mr. Coelho stated the two agencies referred in this proposal need to be on the same track to expedite the permitting process.

(COMMISSIONER TOM ARRIVED)

Commissioner Lendio commented on Mr. Coelho's earlier statement regarding his uncertainty of whether the recent reorganization had the necessary time to acclimate and take effect. Mr. Coelho responded he thinks some of the departments can effect change quicker than other departments. He went on to say he thinks the city has not seen the full benefits because the timeline has been so short since the last major reorganization; the prudent economical thing to do is to see how it does play out. Mr. Coelho commented that some of the departments are running well and efficiently, and a majority of the departments are understaffed and it would take awhile to get adjusted to any reorganization. Commissioner Lendio expressed her confusion regarding the fact that Mr. Coelho made those statements, but proposed

to reorganize some of the departments. Mr. Coelho responded some are easier to structure and some are not. Commissioner Lendio then questioned the restructuring of those specified departments are based on economic and efficiency reasons. Mr. Coelho responded those are the primary reasons as economics and efficiency of operations and what they feel that would make the department run and operate better in the interest of the citizens.

Commissioner Lendio expressed her concern that there has been a mandate from the voters to do this organization and it's only been 7 years, so the city may be facing this issue again in the next 10 years when another Charter Commission convenes to see if it should be changed back. Her concern is about his initial comment that it has not been a long enough time to see if the reorganization works. Commissioner Lendio stated if the proposals were moved forward, she'd be interested to know what the opinions of those who in the proposed departments regarding how it's being reorganized and if whether or not splitting up the departments would assist them in improving their service to the taxpayers. Mr. Coelho responded perhaps the director Henry Eng could respond. Mr. Coelho went on to say from his observation the process to get permits involves planning and the process of planning involves past and future permitting process. He went on to say the two are interactive and are a function of one another.

Commissioner Chang commented that the model upon which the planning and permitting functions were previously based was the fact that planning functions set the strategic direction of the organization; so planning is long range. Then the permitting part is more the implementation or the operational side of that. He asked Mr. Coelho if there is merit to that idea. Mr. Coelho responded he would agree with the line of logic that says the process begins with planning and then is implemented through the permit process. Mr. Coelho continued to say that would be the reason to keep these two agencies together as functioning as a unit, because Honolulu is not a new city but a mature city. Planning is complex, trying to anticipate the future needs and permitting process that go side by side. Mr. Coelho stated he would defer to Mr. Eng, but he feels the efficient method to do it is to have the two agencies together. Commissioner Chang commented that's where the inherent conflict lies, because if a single director were responsible for both functions, the permitting side would always hesitate when there is a question that may be raised about the planning side. The planning part raises the larger policy strategic questions on where the city should go, and the permitting is the carrying out of those plans and it cannot hesitate once the plan has been adopted and everyone understands what the rules are. Mr. Coelho responded, if he could stress the importance of communication, rather than trying to create a wall between the people responsible for the City master plan, intermediate range plans, immediate plans, and the permitters who permit the use or construction. Mr. Coelho went on to say they probably could set the two agencies up separately to eliminate the potential for conflict but it would cost the taxpayers than having the two agencies remain intact.

Henry Eng testified in opposition. He went on to say the proposed amendment does not have any merit and is not supported by fact. Mr. Eng went on to say he views that consolidation allows for better coordination. He added working with other professionals he is finding many mainland communities are moving towards consolidation of planning and permitting as opposed to separating the functions. Mr. Eng commented that within the year he has been in the department there have been definite improvements. A lot of concerns expressed behind the split were a direct result of, in their view, inadequate staffing, funding, increased volume of activity, and the loss of senior staff. Within the last year, they have addressed all of those concerns, and permit procedures have improved, and they are now focusing on better and increased use of online technology to allow the process to work more smoothly.

(COMMISSIONER KAWASHIMA ARRIVED)

Commissioner Sullivan asked Mr. Eng to explain for the benefit of the other Commissioners that he was a past staff person. Mr. Eng responded he did work with the planning department back in 1969 for 15 years with the administration and 4 years with the Office of Council Services. Commissioner Sullivan stated she knows Mr. Eng has had experience with multiple versions of the planning department – the Department of General Planning, then Department of Land and Utilization, then Planning and Permitting. Commissioner Sullivan stated her concern is every time this department changes, it's extremely disruptive to the staff as well as all the functions that are occurring for the city there. Commissioner Sullivan asked Mr. Eng if reorganizing the Department of Planning and Permitting again to emphasize long range planning would substantively change anything. Mr. Eng responded he views it would be a negative change because the change would separate the functions that have worked better together over the past several years and separating them again. He went on to say the separation does not allow for the daily coordination, which they are able to achieve as a result of being under one department. Commissioner Sullivan asked Mr. Eng if the majority of the planning functions of the department are based on the development plans or sustainable community plans and that interact at the permitting level, and if he could explain how the long-range plan interacts with permitting. Mr. Eng responded they have many responsibilities. There's general planning development plans, an implementation group that handles zone changes which interfaces with the first group, then permitting which interfaces with both groups. He went on to say that's the last step for a landowner to get clearance to build what he wants to build and throughout the process, the groups can interact with another group because they are under one roof and doesn't believe would exist as separate agencies. Commissioner Sullivan asked Mr. Eng, if the proposal moves forward, she would like the department to submit actual statistics on increased permit volume as well as percentage staff attrition and where the department is now on staffing, which would be helpful and instructional to the Commission. She stated

there have been many complaints that there has been slow down in the permit process and there has been a tremendous increase volume since the time of reorganization until now. Mr. Eng responded they could go beyond the written testimony they have submitted where he highlighted some of the things in their testimony such as increased staff and improved their operations to better serve the public and he could provide the additional data requested to show the permit volume.

Commissioner Coffee asked Mr. Eng in his long-term association with the planning department, before the consolidation of the departments if Mr. Eng has encountered any breakdown in communication between the planning and permitting and if he was in favor of the consolidation of the two departments. Mr. Eng responded he doesn't remember because it was a long time ago. He went on to say he thinks having the two departments together allow for better coordination and knows as separate agencies there's always a certain degree of competition, but being under one agency they are all working towards the same goal which he feels is an advantage.

Commissioner Mikulina commented that in listening to Mr. Eng's testimony they heard a lot about efficiency and streamlining. Commissioner Mikulina stated he is less interested in efficiency, streamlining, and number of permits issued, but more interested in quality of life, developing the island in a sustainable manner, and providing that service to the Oahu residents. He went on to say, if this was the case, he could see the benefit of having two distinct organizations. Commissioner Mikulina also said he could see a synergy of the agencies together and can argue the city should have a Department of Planning, Waste Water Management, Transportation – every department in one when planning. He went on to say when the city is planning for smart growth especially, everything should be in one department, where we put our roads, where we put out transit services, how much water we have left in the island, where we site our power plant. Commissioner Mikulina went on to say it could be argued both ways, stand alone autonomous groups or one department that looks at growth and development on the island and address each asset of that development on the island. Commissioner Mikulina asked Mr. Eng how would he respond to that notion and how well does he work with other agencies involved with development proposal. Mr. Eng responded plans are not set in stone, plans are set up so they can look to the future if experience proves that a different direction is needed they can go that way. Mr. Eng responded in respect to the complexity of the process itself, as the city was reorganized they have picked up elements mentioned earlier and they do have personnel within the department that are doing that, and that's why he speaks so vigorously of the coordinated effort.

Commissioner Grau commented he sees two types of efficiency. One is how expeditiously permit requests can be considered and evaluated, which is being improved with various types of information technology, efficiency, etc. The other

efficiency is articulating the plans that are developed by the city and then efficiency of getting the plans realized through the permitting process. Commissioner Grau went on to say having the head communicate with the arms and the legs is absolutely essential if they want to have the body go where it wants it to go. Mr. Eng responded it's easier if it's attached to the head. He goes on to say when they do long range plans, they also implement those plans and then go the next step of permitting to make those things a reality which is a full spectrum of service provided.

Commissioner Hirano stated she thinks the genesis of the proposed amendment is probably from frustration with the building permit process. She recommended to Mr. Eng to provide an evaluation of how the department is handling the multitudes of request they are having, if the proposal moves forward. Mr. Eng responded he would be able to provide that if the proposal moves forward.

Chair Takaki asked if Mr. Eng knew how permits have been issued and the average amount of time to issue a permit 7 years ago versus today? Mr. Eng responded probably it's increased and thinks the increase has stemmed over the past due to the improvements they have made. He went on to say the number of permits issued has slightly increased. Chair Takaki then asked what is approximately the current amount of time it takes to issue a permit now. Mr. Eng responded that is a difficult question; they have permits for fences, single-family homes, and high-rise condominiums. Chair Takaki noted they are different levels, if he were to choose which permit has the highest volume of issuance what would be the approximate amount of time. Mr. Eng responded it would be home renovation permits and they have found is the length of time that's logged in is not the affected time of processing. Mr. Eng went on to say they are looking at ways to look at the effective time the department spends on permits. Mr. Eng explained there are times the permit is inadequate and requires changes, and are sent back to the consultant and may take a various amounts of time before returned with changes. Therefore, the job is created on day one and shows it's being issued 10 months later. Mr. Eng stated the few that he has been asked to investigate shows conclusively the time the department spent reviewing is a fraction of the 10 months. But from the owner's perspective, 10 months have lapsed, and they may or may not know the difficulties the consultant is having. Mr. Eng went on to say if he was the homeowner and didn't know the situation, he would be upset also but having the opportunity to analyze the process, it's tempered a bit more and it's more realistic.

Commissioner Pacopac asked Mr. Eng if the functions were split, would it increase the permits or make the process faster? Mr. Eng responded he views it would take longer because of the decreased opportunity for coordination.

Tom Heinrich testified in support. He went on to say Proposal 59 is identical and at the appropriate time could be taken out of consideration. Mr. Heinrich stated his concern that the proposal makes a general statement and offers no way in which the

reorganization might be accomplished. He went on to say he has also heard many of the complaints and feels this may be useful overall consideration on some issues before the Charter Commission and the department. Commissioner Sullivan asked Mr. Heinrich to explain why he supports the proposal. Mr. Heinrich stated he supports the proposal for further public input and consideration especially with some of the statements that would be instructional to the department. He went on to say with his own experiences over the 7-8 years particularly in relation to the redoing of the primary urban center development plan and consideration of the permitting side of the review for conditional use permits, the consolidation of these functions into a single department has been more instructional and efficient once you know the process. Mr. Heinrich stated the communication is a critical advantage for both functions being in one department. He supports the proposal moving forward for further input, but opposes dividing the functions.

Councilmember Okino testified in support. He stated he has been with the City for over 40 years, 33 years as a planner with the Department of Planning and the combined Department of Planning and Permitting. Councilmember Okino stated he understands the cost of reorganization and it's a significant matter for the Charter Commission's consideration as well as the consideration of how to implement the reorganization. He went on to say some points raised in earlier testimony are good. Councilmember Okino stated traditional view of government is to separate line functions and staff functions. He explained staff functions are basically planning and budgeting, which are meant to oversee the entire city. Councilmember Okino went on to say the Planning Department and the Budget Department should oversee every function the City undertakes and that's their responsibility. Councilmember Okino explained the theory that the Mayor, who has overall look at the city from a policy perspective, oversees staff agencies and everyone else comes under the Managing Director to implement the plans. He disagrees there are much coordination in the planning area between the planning department and the permitting agency, who basically implement the plans. Councilmember Okino goes on to say the possible efficiencies might de-emphasize some of the overseeing functions and long range planning functions, and move some of the long range planners into a day to day situation because that's most pressing and the long range planning suffers.

Commissioner Chang stated there used to be an Executive Committee, which consisted of the Mayor, Managing Director, Corporation Counsel, General Planning, and the Budget Director. Commissioner Chang asked Councilmember Okino if there was a similar function or structure in today's operation. Councilmember Okino responded not at this time. Councilmember Okino stated under the past administration they got away from that function and dissolved the Executive Committee. He put everything under the Managing Director so there was no general oversight from a policy perspective; everything was turned to implementation. Councilmember Okino went on to say he feels an overall view or monitoring the

direction they want to take was lost, and lost foresight of where they want they city to go. For example, watching the environment would definitely improve with the oversight of an Executive Agency made up of the Planning, Budgeting and the Corporation Counsel departments.

Commissioner Sullivan said policy decisions are derived from the Mayor and asked if Councilmember Okino if he agreed at some level, no matter how they agree or disagree with reorganization, the Executive Branch has control. Councilmember Okino agrees and said they can make anything work, combine the two and focus differently on how he wants to run the city. Focusing on day-to-day issues and visible things is the choice of the Mayor, but looking at good practices for local government, there needs to be oversight functions in the city. Councilmember Okino commented the City would be better off if the City had a separate planning agency that was committed to the oversight function for the entire city, and then functional areas working with all the line agencies and coordinating budgets. He said they look at the CIP budget superficially if they are on the planning map. He mentioned the operating budget and asks how they know if they are spending money to implement the city plans. Councilmember Okino followed by commenting he's not saying the city has ever done those things, but some of the items mentioned have never been done for different reasons, e.g., shortage of staff or heavy workload. He stated that if we want a good city, we need the separate oversight function in the city, called staff functions, and let the line agencies implement.

Commissioner Sullivan stated that for many years that was how the city was organized, and those things have not happened. She said the functions are getting better funding as a combined department than when they were separated; she thinks the department is stronger now than they were when they were separate. Councilmember Okino disagrees and believes it was a lot stronger in the late 1960's and 1970's; there was a better planning function and a lot more planning activity from a policy standpoint. Commissioner Sullivan asked if was a function of the Mayor or the organization. Councilmember Okino responded he was unsure, but he thinks it was the way it was setup with a separate planning function. He went on to say that when they combined the planning and permitting functions, the long-range planning decreased, although it was on a downward trend before the combination. Councilmember Okino mentioned the 1970's period, during which they came up with the directed growth policy for the island, determined Kapolei would be the second city. At that time they were doing a lot of long range planning and looking at what was most beneficial for the island. He said the product is the current long-range plan to go toward Kapolei and preserve the rest of the island. He also stated there was a lot more staff at that time in the planning department, and everyone was working on the long-range planning for the city. For these reasons, he disagrees with Commissioner Sullivan and stated they played a vital role in terms of long range planning done over 30 years ago. Commissioner Sullivan commented that was done 30 years ago, but for the last 20 years the department was reorganized like

they wanted it and they don't know what the problem was. Councilmember Okino agreed.

Shannon Wood gave comments. She stated her organization is in dire need of long-range 10-15 years planning of waste management and water issues. Ms. Wood went on to say because the Department of Planning and Permitting has been dealing with the here-and-now, they haven't been able to establish this. She said the Department of Environmental Services would be giving a presentation before the City Council on the long-term waste management planning process. Ms. Wood commends Mr. Eng for his help with shortening the permitting process; now the wait is 8 to 12 months, down from 15 months to 2 years.

2. **PROPOSAL 59** - Department of Planning and Permitting; Divide the functions of the Department of Planning and Permitting into a Department of Planning and a Department of Permitting.

The following individuals testified:

1. NONE

Written testimony:

1. Donovan Dela Cruz, Council Chair, Honolulu City Council
2. Henry Eng, Director, Department of Planning and Permitting

No additional testimony.

3. **PROPOSAL 48** - Board of Water Supply and Wastewater; Merge the City's Wastewater Management functions with the Board of Water Supply; change method of appointment of Board.

The following individuals testified:

1. Gary Okino, Councilmember, Honolulu City Council
2. Tom Heinrich (Support)
3. Shannon Wood, Interim President, Windward Ahupua'a Alliance
4. Donna Kiyosaki, Deputy Director, Honolulu Board of Water Supply
5. Stan Fichtman, Staff to Councilmember Charles Djou, Honolulu City Council

Written testimony:

1. Gary Okino, Councilmember, Honolulu City Council (Support)
2. Charles Djou, Councilmember, Honolulu City Council (Support)

Councilmember Gary Okino testified in support. He stated he supports the proposal

for two reasons. First, he mentioned efficiency. Councilmember Okino noted there are lists of agencies that have combined both functions in the proposed amendment. He goes on to say the agencies have experienced a lot of efficiency gains, between 10% - 30%. He gave an example of 20% efficiency gain between the two departments, which would save \$30M a year in operating expenses. The logic is simple, wastewater and water functions are hydraulic engineering functions on different ends of the water scale. Therefore they could combine, engineering, construction, maintenance, and human resource functions, which have proven to be a great model for saving money. Councilmember Okino's second reason is to establish autonomy for the wastewater function as well. He went on to say the proposal calls for the wastewater function become part of a semi-autonomous agency like the Board of Water Supply. Councilmember Okino stated this would protect the money for the wastewater functions, and create a single agency that would be dedicated to completing that function.

Commissioner Lendio asked Councilmember Okino how he got \$30M in savings. She asked if the City Council or any City agency had done a study as to what the savings would be if it were consolidated. Councilmember Okino responded they looked at the experience of 50 different municipalities in the United States and found the savings ranged between 10% to 30%, and he took the operating budgets of the two agencies, less debt services and other items that will remain, and multiplied it by 20%. Commissioner Lendio clarified that this is hopeful savings if it were merged, and not an actual study of the current city system. Councilmember Okino responded in the affirmative, that it is not a study of the city's system. He commented that in looking at 50 municipalities, all experienced savings in that range where he could kind of make a safe guess at what the savings would be. Commissioner Lendio asked if he considered what the consent decree liabilities are to the Board of Water Supply; she understands there hasn't been a rate hike from the Board of Water Supply since 1995 and to incur the consent decree liability would be like Microsoft taking over WANG computers in trying to make them as strong as they are. The Board of Water Supply is in the black and doing very well, and doing research on other source and other technology. Then the wastewater facility has to raise sewer fees and concentrate on improving the system. Commissioner Lendio said it is also very important that HGEA and unions be consulted. She said the Board of Water Supply has separate contracts with the union, and merging the two departments would require consent of the unions and she is unsure if unions have been consulted on any type of merger.

Councilmember Okino responded that when the merger was considered two years ago, the Board of Water Supply did talk to the unions and there were sign-offs on doing this. In response to her first question regarding consent decree liability, he said it's one of the biggest misconceptions that the Board of Water Supply and Wastewater would be merged into the Board of Water Supply. Councilmember Okino stated that is not the case; it would be a new water and wastewater agency.

He goes on to say the proposal is to organize under two separate distinct units with a Chief Executive Officer and two Chief Operating Officers. He noted they would be operated separately under one function and some things would be combined.

He noted that as far as raising fees, if maintained in the city, fees would have to be raised to meet the consent decree. Councilmember Okino stated his concern is that money can be raised, but it must be used for the right purpose. He commented it would isolate a unit that is dedicated to fixing the wastewater system as their mission and believes they will do the right thing to get the job done in the most efficient matter. Creating a semi-autonomous agency also gives the public the perception they need to be run as a private company. He stated creating an autonomous wastewater unit would bring that type of spirit to the agency. Commissioner Lendio asked what about the accountability; questioned if wastewater wouldn't be accountable directly to the taxpayers; and asked if EPA would have to be consulted if there is a merger between the two entities. She stated her concerns about who would be accountable if there's a major sewage spill; should the City Council and Administration have oversight for something as that catastrophic? Councilmember Okino stated the Board of Water Supply has been operating as semi-autonomous agency for years and doesn't think there have been any types of accountability type of concerns. He went on to say this is not inventing something new, most municipalities in the United States have combined both agencies. Wastewater and water functions are still accountable to EPA and department rules also. Councilmember Okino said he was not quite certain but thinks that was looked at when they first proposed the merger.

Commissioner Grau stated his concern about water as a precious resource in Hawaii. He went on to say it would be life for Hawaii several generations from now. He noted one of the advantages of the Board of Water Supply could act as some kind of source to protect that resource. He stated his concern is if they are tied together that one might want to pay for sewer by pumping more water. He worries we need a Board of Water Supply who's interested solely in protecting resources and not tie it to paying bills at the other end. Councilmember Okino responded he doesn't understand; how they could pump more water because the charges for sewer are based on usage. He went on to say the water usage is not up to the Board of Water Supply but up to each individual consumer. Councilmember Okino goes on to say he doesn't think that is the concern but think it creates greater pride in being more efficient. He stated he doesn't think the pride in the Board of Water Supply aside for conserving water would go away, that's their mission. Councilmember Okino said the Board of Water Supply would not have the interest of the Wastewater division and goes on to say the Wastewater would undertake the same type of fervor for doing a better job. Commissioner Grau stated he's concerned if a disaster occurs or a settlement that requires a large expenditure of money and the city would have to increase their revenue by raising the price of the commodity we are selling or to pump more of it. Councilmember Okino responded

the concern about a disaster and its huge cost would exist whether it's the city or this agency. He went on to say relating to liability, even though it would be semi-autonomous; it is still a city agency. Councilmember Okino stated the city would still be responsible and any type of settlement, but the semi-autonomy would create a wall between politics and semi-autonomy so they can do the job they need to do.

Commissioner Kawashima asked Councilmember Okino if there were any disadvantages reflected in the research done on other municipalities done in relation to the resolution attached to the proposal the City Council has passed in 2002? Councilmember Okino responded he did not recall the details of the research. Commissioner Kawashima goes on to say he presumes the information the City Council was relying upon at that time would still be available? Councilmember Okino responded the Board of Water Supply did the study. Commissioner Kawashima asked Councilmember Okino if there was any downside to the consolidation and if the Commission would be able to obtain the information. Councilmember Okino responded in the affirmative and stated the Board of Water Supply started a study but doesn't know how far they have completed the study. Councilmember Okino went on to say the Board of Water Supply did outline a transition schedule and must have done a lot of data collection and conceptualization of what would eventually happen. He said in fairness to the Board of Water Supply, they did abandon the effort for the same reasons the Commissioners have concerns having to be stuck with huge dents they would have to undertake to the consent decree would require over a billion dollars with and the bigger concern being blamed for raising sewer fees. Councilmember Okino stated sewer fees have already been raised and the city have already set the initial 25% raise and set a schedule of raises for the next 6 years between 10%-12%, which is supposed to be adequate unless there is some unforeseen circumstance. He goes on to say if anything happens, the city would be accountable but where does the accountability lie? The political side or the autonomous side; the city has to find some way to take care of it. Councilmember said if they had the autonomy to do what is best, that would be the best situation.

Tom Heinrich testified in support. He said there are great examples in the system with some of the coordination of various processes could accomplish some of the things Councilmember Okino has testified about. Mr. Heinrich said the transitional issue would be the real key if the proposal moves forward, and stated the proposal has strong merit and supports the proposal move forward for further public and departmental input. Commissioner Lendio asked a hypothetical question for Mr. Heinrich. Commissioner Lendio asked Mr. Heinrich if he was on the Board of Water Supply and had to exercise the fiduciary duty on whether or not to assume the liability of the Wastewater department of behalf of his shareholders, she asked if he knew enough to answer that question. Mr. Heinrich asked for clarification, individually or hypothetically on the Board of Water Supply. Commissioner Lendio clarified if he was a member of the Board of Water Supply and had to exercise his

fiduciary duty in the best interest of his shareholders and he knew about the billion dollar liability, if he would think it would cause him to pause as to whether or not he would accept it as a liability for his company? Mr. Heinrich responded in the affirmative that he would hesitate in that regard and went on to say if they were to really get into the detail, part of the difficulty would be that the distinction between the taxpayers of City and County of Honolulu and rate payers for water supply or wastewater services. Mr. Heinrich commented he doesn't think they are the same, stated they overlap in some way but is not identical. He goes on to say the transitional issues that would need to be resolved, the questions of the liabilities, and how to deal with EPA would have to be taken into strong consideration. Commissioner Lendio asked Mr. Heinrich if it would have to be a very careful decision as a director with a fiduciary duty to the chair holders with regards to water. Mr. Heinrich responded yes and especially if they are confusing in one sense that the City for most things is self-insured and he feels the Board of Water Supply could not assume that same type advantage.

Shannon Wood testified in support. She goes on to say she's been studying the issue of consolidation for almost 3 years. The original proposal back in 1998 by then-Mayor Jeremy Harris placed the Board of Water Supply under the Department of Environmental Services and would no longer be a semi-autonomous agency. Ms. Wood stated she supports this proposal because they already handle the billing process for Environmental Services and are experts in placing pipes underground. She went on to say in her community, they are facing two separate projects, one from the Board of Water Supply and the other from Environmental Services, to replace the sewer lines within a year apart from one another in the same location. Ms. Wood goes on to say the two agencies are trying to coordinate the projects but are not obligated to do so. She goes on to say there are other cities across the United States where fresh water and wastewater have been merged.

Donna Kiyosaki testified in opposition. Ms. Kiyosaki stated as heard earlier from previous testifiers this is not a new concept. In 2003 the Board of Water Supply and the Department of Environmental Services started a joint study to look at the feasibility of a merger. She stated as part of the study they spoke to EPA and three major bond-rating agencies about the potential impacts of a merger. At that time both the Board of Water Supply and the Department of Environmental Services both concluded the timing was not right for a merger and the review was discontinued. Ms. Kiyosaki stated both departments still feel the time is not right or appropriate and stated the following reasons. The Board of Water must carefully manage and plan for renewal and replacement of their infrastructure and explore alternative water supplies to provide for future water demands. The Department of Environmental Services must comply with the EPA consent decree deadlines as previously talked about. Ms. Kiyosaki stated failure to implement the long-term capital program on either agency would have a major quality of life impact for residents of Oahu. She goes on to say Board of Water Supply and the Department of Environmental

Services' focus should be on the successful implementation of their respective capital programs in the next 10 years. Ms. Kiyosaki stated the Board of Water Supply is in the midst of an effort to re-engineer their organization to transform into a world-class water utility that seeks to provide the highest quality customer service while ensuring the sustainability of water supply for future generations. She stated some of the innovative human resource programs they have begun include multi-skilled worker (MSW) programs in field operations where they train employees in various trades. They had a pilot project working the UPW and HGEA and are in the midst of offering it to their entire Field Operations as well as Plants and Customer Service. Ms. Kiyosaki stated they are concerned about the consent decree and shifting that liability to the Board of Water Supply, which would present an enormous fiduciary and legal burden on their Board and organization. She goes on to say EPA did express a concern at their meeting that an administrative change could delay compliance of the major consent decree deadlines. Ms. Kiyosaki said the two agencies are separate operation in terms of both state and federal regulations, EPA and the Department of Health, they report to different agencies and the skilled sense of level in technical expertise is different between water and wastewater.

Commissioner Lendio asked if Ms. Kiyosaki could continue with comments regarding reasons she feels the merger would not be a wise one. Ms. Kiyosaki responded she did provide most of the concerns. Ms. Kiyosaki explained the issue of the Board of Water Supply reorganization, efforts to re-engineer the Board of Water Supply and provide the multi-skilled program is if the organizations were to merge it would mean the Board of Water Supply would have to stop the programs. She went on to say civil service reform has been a hot topic over the past 5-6 years and the Board of Water Supply has the opportunity to do real government reform in the area of civil service, and it would be impossible to continue if the merger were to take place. Commissioner Lendio stated she understands they have had detailed discussions with the various unions involved over a period of many years in order to reach where they are now in terms of their reform. She went on to say believes the unions have agreed that this is the way they want to go with multi-skilled workers. Ms. Kiyosaki responded that is correct; it's been a painful process as change is always difficult, especially for employees in an organization such as the Board of Water Supply. Ms. Kiyosaki stated that by changing the way they do their work, with a merger with another agencies like the wastewater division of Department of Environmental Services, it would place a tremendous burden not only on the Board of Directors but on the employees as well. Commissioner Lendio asked if it has been working. Ms. Kiyosaki responded it is working but it is a very slow process.

Commissioner Chang asked what is the Board of Water Supplies current bond rating? Ms. Kiyosaki responded their current bond rating is a double "A", they buy insurance and sell or issue bonds at a triple "A" rating. Commissioner Chang goes on to ask if their conversations with Bond Counsel, were they given an informal opinion as what it would do to their bond rating? Ms. Kiyosaki responded no, they

were very careful to skirt that issue. Commissioner Chang goes on to ask if there is a concern? Ms. Kiyosaki responded there is concern, it's a very complicated issue of whether to decrease existing debt or they continue the debt and do they have a responsibility to go back to bond holders who purchased the bond with a different type of structure in place and now they are changing what would that mean. She stated they did not go into conversations discussing all of those issues but there were issues that were put on the table and it was not going to be an easy thing and be very complicated.

Commissioner Mikulina asked Ms. Kiyosaki over the long term does she see synergy to be realized by having the two agencies under the same umbrella? Ms. Kiyosaki responded she appreciates his thought and philosophically she agrees there are a lot of reasons why a merger would be considered. She stated in her background in engineering having designed both water and wastewater systems, they are similar and yet different types of expertise needed in each area. Ms. Kiyosaki gave an example of an area that could be a cause for concern. She stated she is currently on the National Board of Directors for the Association of Metropolitan Water Agencies, which are large water utilities across the country and have been dealing with a number of issues at the federal level and there are members of the board of directors who have combined water and wastewater utilities. Ms. Kiyosaki stated there are issues that come up where the head of the combined agency would be conflicted because water sees it one way while wastewater sees it from a different angle. She stated an issue that has recently came up on a Congressional level where they were trying to establish a trust fund, a way to fund wastewater infrastructure because it's not only in Honolulu but also across the country where wastewater infrastructure had a hard time keeping up with demands for capital improvements. Ms. Kiyosaki stated one of the suggestions early on was to fund the trust fund by adding a surcharge to the water bill. The water agencies disagreed and went on to say between the safe drinking water act and the Clean Water Act, there are times when they will be in agreement. She goes on to say as one head of an agency like that she could see where it would cause conflicts. Ms. Kiyosaki commented she doesn't think philosophically they disagree with some of the issues that have been brought up to why a merger but the timing right now would not be fair to either agency nor most importantly fair to the customers they both serve. She stated they both have very ambitious 10-year programs and need to be allowed to at least get the bulk of it completed before looking at combining the agencies. Commissioner Mikulina asked Ms. Kiyosaki if they would be open to this idea some time in the future. Ms. Kiyosaki responded in the affirmative.

Commissioner Meder stated Ms. Kiyosaki testified this would not be the right time and what would the conditions be and in her opinion when would be a better time for this type of merger? Ms. Kiyosaki responded she doesn't want to speak for the Department of Environmental Services wastewater division, but believes their major consent decree deadline will be coming up within the next ten years. She stated

that has been used as a mark and in the next ten years for the Board of Water Supply they'll be exploring alternative water supplies and are in the midst of developing their island wide integrated resource planning process and it will take a while to complete that process. Ms. Kiyosaki stated both agencies are in the midst of major policy decisions that need to be made for each utility and thinks they need to be allowed to mature those plans before they start to discuss merger. Commissioner Meder followed up with a question to Ms. Kiyosaki on the issue of exploring new methods of supply. Commissioner Meder commented the 1992 Oahu Water Management Plan stated the sustainable yield for Oahu's aquifers was 2012 but within the last 14 years it has been extended maybe 6-10 years but are still looking at serious depletion of our water sources. Commissioner Meder stated to look at the extension of that resource through both ends of the pipe and when need to extend by reclamation or other methods, having the two entities in a closer alignment would make it a more effective exercise. Ms. Kiyosaki responded the Board of Water Supply currently has a recycled water facility at Honouliuli Treatment Plant in Ewa Beach and they take effluent from the city's wastewater plant and run in through their facility, treat and sell as irrigation quality water as well as industrial quality water. She stated that cooperation and partnership already exists and they have talked at great lengths with the wastewater division about other possible recycled water facilities across the island. Ms. Kiyosaki goes on to say it's not a resource the Board would not look at because wastewater is not merged with the Board of Water Supply. She goes on to say the entire community, city, state needs to get together and decide how best to move the recycled water issue forward because it's not just the Board of Water Supply and not just wastewater. She stated the Commission on Water Resource Management, Department of Health and other agencies that need to get involved to make it a successful program. Ms. Kiyosaki commented the Board of Water Supply is committed to it, but they are only a part of the whole equation and involves a lot more than the Board of Water Supply and wastewater.

Chair Takaki asked Ms. Kiyosaki asked if she could explain a little further on the issue of consent decree. Chair Takaki noted the Department of Wastewater has to deal with the consent decree, if they were to merge with the functions of the Board of Water Supply, the liability would then become the responsibility of the Board of Water Supply? Ms. Kiyosaki responded in the affirmative. Chair Takaki then followed there is not going to be an increased liability to the citizens of Honolulu, either way the city would still be responsible to comply whether it's with the Board of Water Supply or with the Department of Environmental Services? Ms. Kiyosaki responded in the affirmative. She goes on to say the an earlier comment made, the city is one billion dollar a year operating budget and the Board of Water Supply is \$100M budget a year. When looking at the ability to absorb some of the major impacts that may arise, including if the city is allowed to continue with the 401H waiver that allows them to not treat everything to a secondary standard in terms of wastewater that those have major impact and those issues have been around for a

long time. She goes on to say to bring those problems over to the Board of Water Supply now would be very problematic.

Commissioner Grau commented the EPA set levels for certain level of contaminants for pollutants in wastewater he presumes and asked if it would be possible to use potable water to dilute wastewater to come into compliance? Then he asked if that were true, wouldn't that constitute a conflict of interest in terms of conserving the fresh water resource? Ms. Kiyosaki responded she's not the expert by any means but understood that EPA would not allow dilution to be the solutions to their NPDS permit violation issues. She goes on to say she thinks that has been attempted and EPA has come back and said no that would not be the solution to the problem so that would not be possible.

Stan Fichtman testified in support. Mr. Fichtman read Councilmember Charles Djou's written testimony into the record.

Chair Takaki asked to take a five-minute recess. Commissioner Lendio moved for the Commission to take a five-minute recess, Commissioner Myers seconded that motion.

RECESS at 3:55 p.m.

RECONVENED at 4:05 p.m.

4. **PROPOSAL 58** - Department of Budget and Fiscal Services; Divide the functions of the Department of Budget and Fiscal Services into a Department of Budget and a Department of Fiscal Services.

The following individuals testified:

1. Tom Heinrich (Oppose)
2. Shannon Wood
3. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services (Oppose)
4. Gary Okino, Councilmember, Honolulu City Council

Written testimony:

1. Alan Kilbey (Support)
2. Donovan Dela Cruz, Council Chair, Honolulu City Council
3. Robert Morita (Support)

Tom Heinrich testified in opposition. He stated he doesn't believe the city's overall activities are nearly as oppressive as the State's having to divide between Budget and Finance and DAGS and with the recent reorganization would support the

present organization.

Shannon Wood testified in opposition.

Mary Pat Waterhouse testified in opposition. She stated it's not necessary to have this type of charter change because the Mayor has the authority to reorganize the departments. Ms. Waterhouse went on to say it is very disruptive and would be very costly in the short term as well as the long term. She goes on to say it is good to have accounting, budget and treasury in the same department as they do have to work together. Chair Takaki stated testimonies in support of the proposal often states the efficiencies that were supposed to be gained by the merger were not gained and asked Ms. Waterhouse if she has any comments how she feel efficiency may have been gained by merger of the two departments. Ms. Waterhouse responded they are having monthly meetings with all departments, budget, accounting and human resources and going over their monthly financial position for each department. She goes on to say in some ways there are efficiencies and they are trying work together in that respect. Chair Takaki asked Ms. Waterhouse how many staff are under the budget department and how many staff are under fiscal services? Ms. Waterhouse responded there is 356 staff for the entire department of which 26 are from the budget department.

Commissioner Tom commented Mr. Eng testified the need for communication and coordination between planning and permitting and asked Ms. Waterhouse if she sees the same needs for budget, treasury and financial accounting in terms of the financial policy of the city. Ms. Waterhouse responded in the affirmative and explained they have to do it all the time, as they are going through the budget process right now. She goes on to say the budget department is obtaining information from Treasury and the Accounting departments.

Councilmember Okino testified in support. He went on to say budget and finance necessarily have to be in the same department. Councilmember Okino commented it would have been better if they had combined the Department of Planning and the Department of Budget because they would have general oversight over all of city operations. He goes on to say the implementing agencies such as Finance and Permitting can be their own line agency. Councilmember Okino commented regarding the concern of the cost for a reorganization but feels at this point it would not make that much of a difference but feels it makes more sense to separate to separate the staff and line agencies. Councilmember Okino commented the general consensus he's gathered from talking with a lot of people was the 1998 organization, though he does not have any hard evidence. He goes on to say it created more inefficiency than anything else. Councilmember Okino stated the way the city was traditionally organized were by functions. He goes on to say the reorganization basically took the operations within each of the departments and combined operations with similar types of operations. He gave some department

reorganization; Architects and everyone who drew pictures were placed in one department, everyone who dealt with money were placed in one department, and anyone who built things went into another department. Councilmember Okino gave examples of projects within his district and the problems he had encountered relating to a Senior Center in Pearl City and a Dog Park in Waiau. He commented he understands the cost it would take to undo the reorganization of 1998 and feels if the organization were to go back to the old way, we would have better government and would be more productive.

5. **PROPOSAL 60** - Department of Design and Construction; Eliminate the Department of Design and Construction and divide its functions and return them to the various subject area departments.

The following individuals testified:

1. Eugene Lee, Deputy Director, Department of Design and Construction
2. Tom Heinrich

Written testimony:

1. Donovan Dela Cruz, Council Chair, Honolulu City Council
2. Wayne Hashiro, Director, Department of Design and Construction

Eugene Lee testified in opposition. He highlighted their written testimony. Mr. Lee stated the administration doesn't believe there is a basis to say that the Department of Design and Construction is not operating efficiently. Mr. Lee stated the issue is one of workload and understands there's a frustration from people who don't see the things that need to be done being done in a timely manner. He goes on to say he doesn't see the logic in deciding of breaking up the workforce and subsequently breaking up the workload would resolve anything. Mr. Lee gave an example should the elimination of the Department of Design and Construction occur and their resources are split amongst various departments, the services of the lone mechanical engineer would not be available to one or more of the other departments and would have to hire their own. He goes on to say if the resources are split the people would actually get less assistance than what is allocated at the moment. Chair Takaki asked Mr. Lee to explain why the Department of Design and Construction should be kept together. Mr. Lee responded the workload even if the department is split up, the workload is still the workload. He goes on to explain dividing their resources, he thinks there's a misconception that people would get at the very least the same amount of staff that are available right now but the reality is they would have less resources available to them if the department is split up. Mr. Lee went back to his example of the lone mechanical engineer in the departments. Commissioner Sullivan asked Mr. Lee if the department potentially would be evaluating reorganization within the current department with merit or not in the future without the benefit of having the Charter Amendment. Mr. Lee responded in the

affirmative. He went on to say they are always looking to organize more efficiently internally. Mr. Lee stated the other issue they are looking at is having the other departments acquiring some technical expertise on their own to address the everyday technical issues that come up rather than to refer everything to the Department of Design and Construction. He goes on to say they envision the direction they want to take is suggesting some of the operating agencies to pick up some technical expertise.

Tom Heinrich testified in some respect he was ambivalent based on earlier discussion but feels it should be moved forward for continued input. He commented the Department of Design and Construction takes the greatest hit with frustration. Mr. Heinrich stated the lack of coordination and slow downs were strongly perceived to be the sides of the pipeline, narrow constrictions that seem to be at the Department of Design and Construction. He stated the key is the coordination of work among the city agencies and cited the example of Charter section 13-120, for the Coordination of Work. Mr. Heinrich stated he was encouraged by Mr. Lee's last comment regarding having each department adding technical expertise.

ACTION:

B. RELATING TO REORGANIZATION

1. [PROPOSAL 20](#) - Department of Planning and Permitting; Undo the combination of the previously separated department.

ACTION – Proposal 20 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Myers. Discussion followed.

Commissioner Lendio stated she would be voting no on all the reorganization proposals for the following reasons. She stated that she strongly believes in the executive branches and as the Mayor's right to reorganize his/her own departments under their tenure. Commissioner Lendio goes on to say they've also heard opposition from the Mayor's office. Commissioner Lendio commented the voter's clearly mandated the change and the approval of the reorganization in 1998 and feels they should give it more time to see the if current Mayor in the next round determine whether or not there should be further reorganization of the city. She stated they should let the voters' mandate in 1998 play itself out and let the current Mayor reorganize the city as he see fits for the benefit of the taxpayers.

Commissioner Lendio also commented she didn't hear any compelling to change in reorganizing departments at what she perceives a very high cost and would not want to see taxpayers' money and real property tax be put to something of better use elsewhere.

Commissioner Myers stated he supports Commission Lendio. He goes on to say he has not been convinced that splitting the departments apart would create more efficiency. Commissioner Myers commented efficiency needs to be looked from the inside on how things are managed, how they are done and smoothing out the workload from that standpoint. He goes on to say he doesn't think a Charter Amendment would create efficiency in that department.

Commissioner Mikulina stated he respect the opinions of the previous to Commissioners who spoke. He would like to see the proposal move forward for further discussion. Commissioner Mikulina stated he does see some of the conflict between Permitting and Planning. Commissioner Mikulina went on to say he would like to see more focus on long term functional planning and making sure that has autonomy to set the vision for our island and then a separate permitting branch that is slated only to give permits as they match the plan and do it expeditiously as possible instead of sharing this function. He goes on to say he thinks there should be an autonomous body that has that long term vision for planning and then maybe explore some time of merging the other departments and would like to further discuss if the proposed departments should be split.

Commissioner Hirano agreed with Commissioner Mikulina. She would like the proposal to move forward for further public input on the reorganization issues.

Commissioner Chang will be voting in support of this proposal for more of a philosophical reasons rather than reasons that were previously articulated in terms of efficiency, Mayor prerogative, etc. He goes on to say he feels it's a fundamental philosophical question on how the City sets forth itself for long range planning.

Commissioner Grau stated he would be voting against this proposal and feels it's essential to have permitting tied to planning and have the same administrative responsibilities. He goes on to say it is important that permitting reflect planning policy and for these reasons would be voting against the proposal.

Commissioner Sullivan stated she would be voting against this proposal. She commented having been through the experience of the past reorganization it was an undertaking and thinks the effect on the staff is underestimated and noted how long it takes for a department that's existed for years and it takes a period of time to adjust. Commissioner Sullivan stated she knows there are strong feelings and difference of opinions but doesn't think it's wise to change it this soon and thinks there are a lot of reasons why things don't work but doesn't attribute them all to organizational issues.

AYES: TAKAKI, CHANG, HIRANO, MIKULINA - 4
NOES: COFFEE, GRAU, KAWASHIMA, LENDIO, MEDER, MYERS,

PACOPAC, SULLIVAN, TOM - 9
EXCUSED: NONE - 0

2. **PROPOSAL 59** - Department of Planning and Permitting; Divide the functions of the Department of Planning and Permitting into a Department of Planning and a Department of Permitting.

ACTION – Proposal 59 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Myers. No discussion followed.

AYES: TAKAKI, CHANG, HIRANO, MIKULINA - 4
NOES: COFFEE, GRAU, KAWASHIMA, LENDIO, MEDER, MYERS,
PACOPAC, SULLIVAN, TOM – 9
EXCUSED: NONE - 0

3. **PROPOSAL 48** - Board of Water Supply and Wastewater; Merge the City's Wastewater Management functions with the Board of Water Supply; change method of appointment of Board.

ACTION – Proposal 48 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Myers. Discussion followed.

Commissioner Hirano stated she would be voting no on this proposal. She stated Commissioner Lendio early gave a compelling argument and provided information regarding the consent decree and feels that issue that weighs heavily on her decision to vote no.

Commissioner Myers says he agrees with Commissioner Hirano and goes on to say anytime there are mergers, acquisitions, combining and so on, the plan has to come from the entities. He goes on to say can't impose a plan merging departments and have it work. There needs to have a good sound business plan behind it from the entities involved. Commissioner Myers stated in the long run it would be a good situation to combine the departments but they have to come with a plan to merge and do it correctly.

Commissioner Mikulina stated he would be voting in support. He state he understands the problems to overcome but when he sees projects like the Waiawa Golf Course being proposed with potable water when upstream there's a potential to use reclaimed water and the hearing before the Water Commission the Board of

Water Supply stated they were unsure of the status of the reclaimed water facility. Commissioner Mikulina went on to say when the use of potable water for golf courses when there is the potential to use reclaimed or recycled water which he commented he think could happen with the merge of the departments. He added that there are many proposals to merge and acquisition departments before the Commission and they have been hearing arguments for or against the proposal, either they share an engineer or don't share an engineer. He goes on to use the example of the Department of Design and Construction's lone engineer within their department and feels the same could happen with a merger of Board of Water Supply and Wastewater.

Commissioner Grau raised his concern of the clean water as a key resource for us, he would not like to see responsible use of water and supply of water tied to another activity of the city. He goes on to say he's concerned the merger could present conflicts unless there's a better plan, which he states there are none right now that would support the merger. Commissioner Grau stated he would like to see the trustees responsible for water have that as their only mandate.

Commissioner Meder raised his concerns for the extension of this resource for Oahu. He goes on to say taking into consideration Ms. Kiyosaki's and Commissioner Lendio's testimony, he thinks there may be logistical issues that could be an impediment to an effective merger at this point. Commissioner Meder went on to say if there are ways to coordinate these activities rather than mandate the merger at this particular point there may be a better solution for the greater public good and he will not be voting to move the proposal forward.

AYES: TAKAKI, COFFEE, MIKULINA - 3
NOES: CHANG, GRAU, HIRANO, KAWASHIMA, LENDIO, MEDER, MYERS,
PACOPAC, SULLIVAN, TOM - 10
EXCUSED: NONE - 0

4. **PROPOSAL 58** - Department of Budget and Fiscal Services; Divide the functions of the Department of Budget and Fiscal Services into a Department of Budget and a Department of Fiscal Services.

ACTION – Proposal 58 to move on for further consideration – motion failed.
Moved by Commissioner Lendio, seconded by Commissioner Myers. No discussion followed.

AYES: HIRANO - 1

NOES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, PACOPAC, SULLIVAN, TOM - 12
EXCUSED: NONE - 0

5. **PROPOSAL 60** - Department of Design and Construction; Eliminate the Department of Design and Construction and divide its functions and return them to the various subject area departments.

ACTION – Proposal 60 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Myers. No discussion followed.

AYES: TAKAKI, HIRANO - 2
NOES: CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, PACOPAC, SULLIVAN, TOM – 11
EXCUSED: NONE - 0

C. FOR SUPERMAJORITY REVIEW, DISCUSSION AND ACTION

Chair Takaki reminded the Commissioners regarding the supermajority proposals were items received after the open submission deadline of October 31, 2005. The Commission stated they would like to have a method by which they could consider ideas before the Commission after the October 31, 2005 deadline. Chair Takaki went on to say the supermajority proposals must meet a higher standard of approval of 9 Commissioners to move on to further public hearing.

Commission Pacopac moved to take a five-minute recess, Commissioner Myers seconded that motion.

COMMISSION RECESSED – 4:45p.m.

(COMMISSIONERS CHANG, PACOPAC AND SULLIVAN LEFT)

RECONVENED – 4:50 p.m.

Commissioner Coffee asked as the sponsor of supermajority proposals S-2 and S-3 to withdraw these proposals.

Chair Takaki asked the Commissioners present as the supermajority proposals before them are not grouped by subject matter if they would like to vote after the discussion of the proposal before moving on to the next supermajority proposal.

Commissioner Lendio called for point of information. She stated although Commissioner Coffee has withdrawn his support of the super-majority proposals S-2 and S-3, because it is on the agenda, the Commission is required to take public testimony on those particular proposals. Chair Takaki clarified Commissioner Coffee stated he is withdrawing his super majority proposals S-2 and S-3.

1. **PROPOSAL S-1** - Fire Dept and Emergency Services Dept; Merge Fire Department and Emergency Services Dept.

The following individuals testified:

1. Chief Ken Silva, Fire Chief, Honolulu Fire Department (Oppose)
Chief Alvin Tomita, Deputy Fire Chief, Honolulu Fire Department
Dr. Elizabeth Char, Director, Honolulu Emergency Services Department
Chief Patricia Dukes, Chief, Honolulu Emergency Services Department
Emergency Medical Services Division
2. Tom Heinrich (Oppose)
3. Sharene Moriwaki, Business Agent, United Public Workers (Oppose)
4. Stan Fichtman, Staff to Councilmember Charles Djou, Honolulu City Council

Written testimony:

1. Dayton Nakanelua, State Director, United Public Workers (Oppose)
2. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)
3. Chief Kenneth Silva, Fire Chief, Honolulu Fire Department (Oppose)
Chief Alvin Tomita, Deputy Fire Chief, Honolulu Fire Department
Dr. Elizabeth Char, Director, Honolulu Emergency Services Department
Chief Patricia Dukes, Chief, Honolulu Emergency Services Department
Emergency Medical Services Division
4. Dr. Edward Kalinowski (Oppose)
5. Charles Djou, Councilmember, Honolulu City Council

Chief Ken Silva testified himself, Chief Alvin Tomita, Dr. Elizabeth Char and Chief Patricia Dukes in opposition of the proposal, signed the written testimony. He stated they stand by their written testimony. Chair Takaki asked if they see any benefits of the proposal? Chief Silva responded there were a couple of points they emphasized in their written testimony and goes on to say they have seen this happen in the mainland previously. He stated you are not only merging two agencies but are merging two cultures. Chief Silva stated what they have seen in the past if they are forced together and if there were poor planning or poor transitioning and if there's a lack of support, it created more chaos than the customers they serve weren't served very well. He goes on to say a lot of studies previously were 10 years ago all done pre 9-11 activities. Chief Silva stated the scope of the work of the Honolulu Fire Department and the Honolulu Emergency Medical Services Department has

changed tremendously since then and the required training and levels of certifications are important for them. He goes on to say they would not leave a decision as important as this to the public but if they do have a decision or get into discussion on it, it should be where they have a broad based approach with all stakeholders involved.

Commissioner Myers asked a question in relation to funding, he understands the EMS funding comes from the state and possibly other grants maybe also the federal government. Commissioner Myers asked if they were merged with a city department such as the Fire Department, would it impair the city's chance for extra funding. Dr. Elizabeth Char, Director of Emergency Services, responded that is a question that has arisen in the past. Dr. Char stated currently EMS' funding is about 100% funded by the State. She goes on to say if the two departments were to merge, the question was posed to the State and is having the Attorney General review and have the Attorney General's office were not able to provide an answer at the moment. Dr. Char goes on to say conceivable the State may back off on some of the funding. Commissioner Coffee asked when a 911 call comes say for a heart attack, where does that 911 operator direct the call? Dr. Char responded 911 call takers that are physically located in the Honolulu Police Department's dispatch area on Beretania Street answer the 911 calls. Commissioner Coffee then asked would a call for a heart attack go to the Fire Department or EMS? Dr. Char responded it would go to EMS. She explains the call takers asked the callers what is their emergency and if they say someone's having a heart attack, they automatically patch to EMS dispatch. EMS dispatch would get that call and do a number of things, 1. give pre-arrival instructions, 2. dispatch the ambulance, 3. usually they would call the Fire Department which EMS has an MOU that they would also dispatch someone so the response time is better and help would get their sooner which is the ultimate goal for the patient. Commissioner Coffee asked in Dr. Char's personal experience roughly what percent of the time has EMS responded to a call and found the Fire Department already on the scene? Dr. Char responded couldn't provide Commissioner Coffee an estimate. Commissioner Coffee then asked for a ballpark figure. Dr. Char responded of the times they ask for a Fire Department co-response, half of the time. Commissioner Coffee asked to clarify Fire Department co-response is not automatic. Dr. Char responded it's not automatic and depends on the situation, type of medical emergency, response time and situation at hand.

Commissioner Coffee asked Chief Silva if there were any success of the studies or merger on other municipalities that were not start-up, not from the beginning? Chief Silva responded recently he attended a class at the National Fire Academy and spoke to a colleague from the San Francisco Fire Department and asked the same question. Chief Silva goes on to say the only models he knows of were in existence and merged. He stated he doesn't know of any start that he could testify about. Chief Silva stated ones that are comparable to our size such as LAFD and San Francisco. He stated the San Francisco was an interesting test case because they

had a lot of issues standing over 10-15 years and are still unresolved till today. Something that has emerged recently which their city is facing an FSLA lawsuit and the reason it's important is the studies did not address those. Chief Silva stated the Fire Department personnel are exempt under a special ruling by the IRS for certain things they do which EMS are not. What LA city has found when they had the lawsuit was in a merged system the EMS workers were due payment in overtime which they did not anticipate. Chief Silva stated what they have found is should this proposal goes through, there is a great amount of due diligence that have to take place and to have the voters make a decision as important as this would not make sense at this time. Commissioner Coffee asked if any of the agencies envision a type of merger done correctly would be feasible in the future? Dr. Char responded it's hard to predict successful mergers. Successful mergers tend to be smaller communities that are very rural and the call volumes are low for both Fire and EMS. She went on to say in larger municipalities and urban areas tend to have a lot more issues and problems. Dr. Char stated what they are seeing over the last five years is that many of the systems that have tried mergers are undergoing de-mergers. Commissioner Coffee asked how would the requirements impact on a separate or combined organization regarding first responders for terrorist attacks whether it be chemical, biological, explosive, etc.? Chief Silva responded the Fire Department is in the midst of continuously training among public safety agencies. The training issues are important for them and have to interoperability as far as communications for things of that nature. He goes on to say their number one challenge for them is to prepare for large-scale emergencies such as WMD, disasters or natural disasters. Chief Silva stated they go through training exercises all the time and have one coming up in February to address those types of issues, which are very important for them.

Tom Heinrich testified in opposition.

Sharene Moriwaki testified on behalf of Mr. Dayton Nakanelua, State Director of the United Public Workers. She stated as a business agent supervision she represent EMS personnel from ESD and HFD Unit 1 and 10 members. Ms. Moriwaki stated they believe both departments provide specialized training and specialized skills for the public and the merger would compromise this level of care. She goes on to say supporting this proposed charter amendment would be a disservice to all of their members.

Stan Fichtman testified in support. Chair Takaki asked why Councilmember Charles Djou is support of the proposed charter amendment. Mr. Fichtman responded Councilmember Djou feels that over 50% of response calls by the HFD are for medical emergencies and feels there shouldn't be separate agencies when they both are increasingly doing the same job. Mr. Fichtman stated Councilmember Djou feels merging of the two agencies would improve coordination of policy government, capital improvements, operational decision, and could yield significant cost savings.

ACTION – Proposal S-1 to move on for further consideration – motion failed.

Moved by Commissioner Mikulina, seconded by Commissioner Lendio. Discussion followed.

Commissioner Coffee stated he submitted the proposal on behalf of Councilmember Djou, however following his conscience and after hearing testimony he feels the proposal might not be appropriate for the charter therefore he would be voting in opposition.

Commissioner Lendio stated generally she would be voting in opposition on all of the super-majority proposals unless she hears something that would change her mind.

Commissioner Mikulina stated he would be voting in opposition. He went on to say as a former EMT employee and appreciate testimony received stating they are distinct departments that does different things.

AYES: NONE - 0

NOES: TAKAKI, COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, TOM – 10

EXCUSED: CHANG, PACOPAC, SULLIVAN – 3

2. **PROPOSAL S-2** - Privatization; Allow privatization of municipal services.

The following individuals testified:

NO PUBLIC TESTIMONY

Written testimony:

1. Randy Perreira, Executive Director, HGEA

ACTION – Proposal S-2 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Grau. No discussion followed.

AYES: MYERS - 1

NOES: TAKAKI, COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO, MEDER
MIKULINA, TOM – 9

EXCUSED: CHANG, PACOPAC, SULLIVAN - 3

3. **PROPOSAL S-3** - Budget; Change city budget process from annual to biennial.

The following individuals testified:

1. Tom Heinrich (Opposition)

Written testimony:

1. Mary Pat Waterhouse, Director, Department of Budget and Fiscal Services (Oppose)

Tom Heinrich testified in opposition. He stated Senator Brian Taniguchi introduced a bill, SB3152, which the purpose of the bill would not be to identify the specific fiscal year but give the discretion to the counties to establish their own fiscal year. Mr. Heinrich went on to say in the larger budgetary picture he feels it would be best presented as an overall package rather than piecemeal.

ACTION – Proposal S-3 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Grau. Discussion followed.

AYES: NONE - 0

NOES: TAKAKI, COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, TOM – 10

EXCUSED: CHANG, PACOPAC, SULLIVAN – 3

4. **PROPOSAL S-4** - Corporation Counsel and Prosecuting Attorney; Merge Corporation Counsel and Prosecuting Attorney.

The following individuals testified:

1. Donna Woo, Deputy Director, Department of Corporation Counsel
2. Stan Fichtman, Staff to Councilmember Charles Djou, Honolulu City Council
3. Tom Heinrich
4. Lori Nishimura, Department of Prosecuting Attorney

Written testimony:

1. Gary Slovin
2. Peter Carlisle, Prosecuting Attorney, Department of Prosecuting Attorney
3. Ronald Mun
4. Donovan Dela Cruz, Council Chair, Honolulu City Council
5. Carrie Okinaga, Corporation Counsel, Department of Corporation Counsel
6. Charles Djou, Councilmember, Honolulu City Council

Donna Woo testified on behalf of Carrie Okinaga, Director, Department of Corporation Counsel in opposition. Ms. Woo highlighted Ms. Okinaga's written testimony. Commissioner Lendio asked Ms. Woo to explain the conflict of interests in defending City employees while the Prosecuting Attorney's office may be prosecuting those employees. Ms. Woo responded with an independent prosecutor, the prosecutor need to conduct any investigation into any alleged wrongdoings of any city employee. She went on to say when you have a prosecutor who would be looking at prosecuting city employee who is entitled to the defense by the city, there would be one office that would be doing the prosecution and the other office would be defending the same individual. Ms. Woo stated there is going to be very tricky screening that needs to be done within the office, which makes them suspect if anything. Commissioner Lendio stated that's not impossible because the Attorney General's office does that right now. Ms. Woo agrees with Commissioner Lendio and goes on to say the Attorney General's Office is a much bigger operation, better defined into their respective functions. Ms. Woo goes on to explain when you just have a Prosecutor and a Corporation Counsel and the size of the Corporation Counsel, they don't have specific defined areas for their attorneys. The Corporation Counsel has share workload and does not translate to the Attorney General's Office.

Stan Fichtman testified on behalf of Councilmember Djou. Mr. Fichtman testified Councilmember Djou feels under the current provisions under the current City Charter, there are two separate entities relating to legal matters in the City and County of Honolulu. The Mayor appoints the Corporation Counsel's director, and the voting public elects the Prosecuting Attorney. Mr. Fichtman stated Councilmember Djou feels these two agencies could be combined and merging of these departments would be more cost efficient and effective in the handling City legal matters and criminal prosecution. He goes on to say Councilmember Djou feels the combination of the two departments would be more accountable to the people of the City and County of Honolulu because under certain provisions there might be an elected head to the department under relative proposals. Commissioner Lendio asked Mr. Fichtman if Councilmember Djou was advocating an elected head of the department for combined or an appointed head for the combined agencies? Mr. Fichtman responded elected.

Tom Heinrich testified in opposition. He stated he has been in discussion during several of the Council Committees over the last three years and agrees with Ms. Woo that these are two functions that do not go together well. Mr. Heinrich goes on to say if the intent of this proposal were to have Corporation Counsel as an elected position, it would be a different proposal as he does not see it on the face of the proposed amendment.

Lori Nishimura testified in opposition on behalf of the Prosecuting Attorney's Office. She noted that Ms. Woo has testified that the functions between Corporation

Counsel and the Prosecuting Attorney's Office are like apples and oranges. Ms. Nishimura clarified that the Prosecuting Attorney's Office does not represent the City and County of Honolulu in the major function of their office; they represent the state. She went on to say they prosecute on behalf of the state under derivative authority from the Attorney General. Ms. Nishimura clarified they are actually not representing the city in the majority of their cases. She clarified the biggest difference is because they represent the state; they do not have a client. Ms. Nishimura stated Corporation Counsel's focus is of representing a city agency and providing the best legal representation, protection and advice for a particular client. She clarified the Prosecuting Office's duty under the code of professional responsibility is to do justice and to not have clients. Ms. Nishimura went on to say under those circumstances, their functions are extremely different. She clarified Corporation Counsel on a day to day basis does more of an advisory, paperwork type of function and conducting civil litigation. The Prosecuting Attorney is a highly trial-oriented office where they are going to trial every day, they don't do deposition nor interrogatories or anything of the sort. She went on to say under the circumstances, the legal functions are completely separate and also believed as a second point would be losing part of the issue of the conflict problem pointed out earlier where if a city employee is suspected of criminal wrongdoing may have the same agency representing as well as prosecuting the person which could cause problems.

ACTION – Proposal S-4 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Grau. Discussion followed.

Commissioner Lendio state the proposal is a bad idea because of conflict of interest questions, questions regarding the independence of the Prosecuting Attorney which she has strong feelings about and for those reasons she'll be voting against the proposal.

AYES: COFFEE - 1
NOES: TAKAKI, GRAU, HIRANO, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, TOM – 9
EXCUSED: CHANG, PACOPAC, SULLIVAN– 3

5. **PROPOSAL S-6** - Petitions; Delete requirement of Social Security numbers on petitions.

The following individuals testified:

1. Tom Heinrich (Support)
2. Stan Fichtman, Councilmember Charles Djou Staff (Support)

Written testimony:

1. Denise DeCosta, City Clerk, Office of the City Clerk
2. Charles Djou, Councilmember, Honolulu City Council

Tom Heinrich testified in support. He stated with the ongoing changes there have been recently relating to privacy issues and phishing. He used the example of the City and County issued drivers license which the city has substituted the once used social security numbers and replaced with an issued identification number. Mr. Heinrich stated he is interested in reviewing the written testimony of the City Clerk because he stated there are other ways to insure when a petition is reviewed to insure signature is a registered voter without using social security numbers as a requirement but use other pertinent information.

Stan Fichtman, Staff to Councilmember Charles Djou testified in support in order to bring that City Charter in alliance with Federal Statutes on the matter. Mr. Fichtman stated currently under the federal privacy act, social security numbers could no longer be used to verify identification except under rare circumstances. He went on to say the current Charter language requiring social security numbers for citizen initiatives, recall or charter amendments are in conflict with federal law. Mr. Fichtman stated the proposed amendment would bring the local governing document into compliance with federal statutes under Section 7, Privacy Act of 1974, 5 U.S.C. § 552A – “It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.” He went on to say accordingly the requirement in Charter Section 15-101(b) second paragraph – “Such petition shall include that each voter's signature, residence, social security number, and date of signing”, violates this federal statute.

Commissioner Lendio asked a question of Glen Takahashi, Office of the City Clerk relating to the written testimony submitted by Denise DeCosta, City Clerk. Commissioner Lendio stated according to Ms. DeCosta's testimony, the Department of Corporation Counsel advised the City Clerk's office the use of Social Security numbers on petitions and various other city documents are in violation of Federal Law? Mr. Takahashi stated in the affirmative they have received a written opinion from the Department of Corporation Counsel and would provide a copy to the Commission for their review. Commissioner Lendio asked if Mr. Takahashi if the City Clerk's office supports the proposal? Mr. Takahashi stated in the affirmative and stated they consider this proposal as a technical amendment and stands on their written testimony.

ACTION:

ACTION – Proposal S-6 to move on for further consideration – motion passed.

Moved by Commissioner Lendio, seconded by Commissioner Grau. Discussion followed.

Commissioner Myers stated he is in support. He stated there might be people who fear signing petitions if they have to provide their social security on the document. Commissioner Myers then stated the proposal is lacking what would be used for identification in place of social security numbers to identify the signatures as anyone could look up a name and address in the phonebook and put it on the petition.

Commissioner Lendio stated she is also in support of the proposal, however would like information on what type of identification would be required on future petitions. She went on to say she hopes the City Clerk's office can propose an amendment during the public hearing process for the Commission to amend the proposal to include that information she requested above.

Mr. Takahashi of the City Clerk's office clarified the City Clerk's office process of confirming the identity with the absence of social security numbers with the proposed amendment would verify a sampling of the signatures on the petition to the City Clerk's office's satisfaction to insure there was no widespread fraud or something of a similar nature. He went on to say they are also responsible for the Voter Registration database they use for the regular election process and would probably use the same procedure for the petition process also.

Commissioner Mikulina stated he would support the proposal. He suggested it might be helpful to look at other jurisdictions to see how they validate if they don't use social security numbers also.

AYES: TAKAKI, COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO, MEDER, MIKULINA, MYERS, TOM - 10

NOES: NONE - 0

EXCUSED: CHANG, PACOPAC, SULLIVAN - 3

6. **PROPOSAL S-7** - Department of Environmental Services and Department of Facility Maintenance; Merge DES and DFM to create Department of Public Works

The following individuals testified:

1. Tom Heinrich
2. Shannon Wood, Interim President, Windward Ahupua`a (Support)

Written testimony:

1. Shannon Wood, Interim President, Windward Ahupua`a (Support)

Tom Heinrich testified in support. He stated he would defer to Shannon Wood who would discuss the proposal and also stated in light of the earlier extent of discussion today this proposal would need to go into a larger discussion.

Shannon Wood testified in support. She highlighted her written testimony.

ACTION – Proposal S-7 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Grau. Discussion followed.

Commissioner Mikulina stated he would be supporting the proposal. Commissioner Meder asked the Commissioners present for open dialogue for insight regarding redundancy of duties performed by two different departments as Ms. Woods discussed. Commissioner Coffee commented it sounds like an issue he feels worth moving on as a regular consideration. He went on to say if the Commissioners present should vote in favor today, doesn't necessarily mean it would be placed on the ballot. Commissioner Lendio commented she doesn't see a necessity to move the proposal forward as the Administration was not present to advocate the proposal. Commissioner Tom added the Mayor has the prerogative to do reorganization without a charter amendment.

AYES: TAKAKI, COFFEE, GRAU, MEDER, MIKULINA - 5
NOES: HIRANO, KAWASHIMA, LENDIO, MYERS, TOM - 5
EXCUSED: CHANG, PACOPAC, SULLIVAN – 3

7. **PROPOSAL S-8** - Permits and Licenses; Protections for natural resources, public health, and native Hawaiian practices

The following individuals testified:

1. Tom Heinrich

Written testimony:

1. Dean Uchida, Executive Director, Land Use Research Foundation (Oppose)
2. Henry Eng, Director, Department of Planning and Permitting (Oppose)

Tom Heinrich testified in opposition. He stated the proposal is very broad and vague which is very difficult to apply and went on to say there are other ways to achieve the ideas stated in the proposal, but not through a charter

amendment.

ACTION – Proposal S-8 to move on for further consideration – motion failed.

Moved by Commissioner Lendio, seconded by Commissioner Grau. Discussion followed.

Commissioner Mikulina stated although the proposal is too broad and vague but that what the charter is for. He went on to say the city shouldn't be approving any development or commercial application unless it doesn't significantly impair any natural resources, jeopardize public health and adversely affect native Hawaii customary and traditional practices and the genesis of the proposal is to have something in the charter that articulated that feeling.

Commissioner Grau concurred with Commissioner Mikulina and would be voting in support.

Commissioner Lendio stated it's a lawyer relief act of 2007 and the city would promptly be sued by a lot of people if the Commission was to pass this on to the voting electorate and should the electorate vote in favor. She went on to say she as a private citizens, these are great ideas and she hopes government organizations who are entrusted in reviewing developments take ideas very seriously but from a legal point of view would not be able to support the proposal.

Commissioner Myers stated he would be voting in favor. He went on to say he feels the Commission needs to look at protecting the environment and what we have. He would like to see the proposal advance to the public outreach meetings.

Commissioner Meder stated the Charter is the mission statement for the city. He went on to say he was unsure of what Commissioner Lendio was referring to with regards to the proposed language would promote suits but went on to say the Commission can craft the language at a later date after public hearing. Commissioner Meder stated he couldn't think of a better location to guide the city then the Charter to discuss the mission as far as protecting the resources and setting a tone for development. He went on to say he thinks these types of statements are important to have in the Charter.

Commissioner Grau commented he hopes the proposals moves forward and that Commissioner Lendio helps to make the proposed language legal.

AYES: COFFEE, GRAU, MEDER, MIKULINA, MYERS - 5
NOES: TAKAKI, HIRANO, KAWASHIMA, LENDIO, TOM – 5
EXCUSED: CHANG, PACOPAC, SULLIVAN – 3

8. **PROPOSAL S-9** - Department of Transportation Services - Revise Powers, Duties and Functions; Promote pedestrian- and bicycle-friendly city.

The following individuals testified:

1. Tom Heinrich
2. Shannon Wood, Interim President, Windward Ahupua`a Alliance

Written testimony:

1. Alan Ulrich (Support)
2. Cheryl To (Support)
3. Kathie Canepa (Support)

Tom Heinrich testified in support.

Shannon Wood testified in support. She went on to say the state has gone through an extensive bike process dated 2003. There are also city plans that have gone forward. Ms. Wood stated the proposal need to be part of the vision and mission of the City and County of Honolulu. She went on to state the proposal is not a specific bikeway but sets a priority.

ACTION – Proposal S-9 to move on for further consideration – motion passed.

Moved by Commissioner Lendio, seconded by Commissioner Grau. Discussion followed.

Commissioner Myers stated he thinks the idea is a good thing to propose but has a problem with the language because it's too restrictive.

Commissioner Tom stated he's ambivalent about the proposal because though he's comfortable with proposed language to amend section 6-1703, but for the reason Commissioner Myers stated above, Commissioner Tom is not comfortable proposed language with Section 6-170. He went on to say not that he doesn't agree with the proposed section, but he doesn't know if it's appropriate to say it's a priority of the department when there are a lot of other priorities in transportation as well. Commissioner Tom asked if the proposed language under Section 6-1703(e) is redundant. He stated in essence it's getting the thought through from a mission statement perspective that we want to reduce vehicular traffic, may not be the same language, but would like to reduce through increased bicycle path and pedestrian activities on the streets. For those reasons Commissioner Tom has concerns regarding the proposal.

Commissioner Lendio commented she would support the proposal if it didn't include the broad policy statement about bicycle friendly city. She stated she sees how transit does not include bikeway and think being specific is necessary.

Commissioner Lendio went on to say she doesn't have a problem with the first part of the proposed amendment but she does with the second portion and proposed to not include the second portion of the proposed amendment.

Chair Takaki clarified the Commission can move the proposal forward and amend at a later date after public hearings.

Commissioner Meder stated he disagrees with testifier Shannon Wood that the proposal is a mandate for a new city it's a way of looking at the way cities used to be where people could walk place to place and bicycle if they needed too. The proposed language, by the absence of such language in the planning approach in the last 40-50 years has allowed the vehicular domination on the road, to the not only the exclusion and minimization of other options, but to the danger of those other options. Commissioner Meder went on to say we have pedestrian and bicycle in the state here as well as the fourth highest in the country. He stated organization National Center for Disease Control looking at how we have been designing our community in ways that have been creating not only adult obesity and childhood obesity, depression and other issues where we are not allowing people to exercise. Commissioner Meder used the example we are in a position now where we have to burn a gallon of gas to buy a gallon of milk. He went on to say we are going to see that situation exacerbated over the next few years and this is their opportunity to take a glance to the future and see that people are going to look for other options and can re-craft language later. Commissioner Meder feels this is the best opportunity to set the tone into the charter.

Commissioner Grau commented he hopes if any of the Commissioners present who have misgivings on the current proposed language might vote in favor with the understanding the language can be crafted later. He went on to state he heard a lecture from a scientist from U.C. Berkley who is with the Center for Disease Control. Commissioner Grau went on to say Type 2 diabetes, Adult onset diabetes is directly attributable to lifestyle and the fact we can't walk from place to place anymore and bicycling and walking are compatible activities. He went on to say the scientist stated the generation coming up would be the first generation that would not have the same life expectancy as their parents.

Commissioner Tom point of order for clarification, can the Commission not amend the proposal now or could the sponsor be open to amendments?

Commissioner Lendio clarified according the Charter Commission Rule has been the move the proposals forward as is and can be amended at a later time.

Chair Takaki also clarified the idea was to wait upon the completion of the public outreach meetings before making amendments.

Commissioner Mikulina replied to Commissioner Tom as he is the sponsor of the proposal and he is open to amendments. He went on to clarify Commissioner Tom's question earlier statement regarding Section 6-1703(e). Commissioner Mikulina stated it is a new addition to the proposal as the current Charter stops at the letter (d). He also stated he did change the original proposed amendment and omitted "giving highest priority to impacts on pedestrian, and bicyclist in evaluating impacts of proposed changes in the use of city streets", which drew conflicts during the first proposed amendment review. Commissioner Mikulina went on to say the Commission can make a policy statement, craft the language should the proposal move forward and accomplish something that makes a state the Commission agrees and sends instructions to the Department of Transportation Services and reaffirm their commitment to a healthy island.

Commissioner Myers commented he would change his vote to help move the supermajority proposal forward but advised if Section 6-170 were still present at the next voting, he would vote against the proposal from moving forward.

Commissioner Tom noted he aggress with Commissioner Myers.

AYES: TAKAKI, COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, TOM - 10
NOES: NONE - 0
EXCUSED: CHANG, PACOPAC, SULLIVAN – 3

(COMMISSIONER HIRANO LEFT)

9. **PROPOSAL S-10** - Public notices; Distribution of public notices via a widely accessible electronic medium.

The following individuals testified:

1. Tom Heinrich

Written testimony:

NONE

Tom Heinrich testified in support.

ACTION – Proposal S-10 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Grau. Discussion followed.

Commissioner Myers stated from his background in public industry, he agrees with the proposal but feels the daily newspaper needs to be first because it is the primary source.

Commissioner Lendio asked if the Administration supports the proposal?

Commissioner Mikulina responded he has spoken to City Clerk Denise DeCosta but is unsure of the position. He went on to say from her previous testimony stated the City Clerk's office is already doing what the proposal is asking for. Commissioner Mikulina stated the Charter already specifically says in a daily newspaper general circulation and would like to expand. He tried to make the proposal vague.

Commissioner Kawashima stated he recalled Ms. DeCosta's testimony at the December 13, 2005 meeting and asked if Commissioner Mikulina knew if she was in support or opposition of the proposal? Commissioner Mikulina responded she was in opposition because the original proposal had different parts of the charter included in the original proposal, which made people feel their jobs were being drastically expanded which was not his intentions. Commissioner Mikulina has made changes and tried to be broader.

AYES: TAKAKI, COFFEE, GRAU, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, TOM - 9

NOES: NONE - 0

EXCUSED: CHANGE, HIRANO, PACOPAC, SULLIVAN – 4

4. **Further Discussion and Action:**

Executive Administrator Narikiyo stated to check the agenda regarding how the Commission will be going forward after the next meeting. Chair Takaki clarified the Commission would discuss if they would like to have another vote before moving on to public hearings or simply go directly to public hearings as originally planned and vote after that.

Commissioner Myers asked for clarification, in order to have another vote the Commission would have to have more public hearings. Chair Takaki affirmed the meetings would all be public and clarified instead of waiting for March workshops, the Commission would vote again in February and after that vote, a reduced number of proposals moves forward. He went on to say if they do this they would have to explain to the general public who may have expected the proposals to be heard in March why it would not be heard in March, but in February.

5. **Committee Reports**

a. Report of the Budget Committee – No Report.

b. Report of the Submission and Information Committee – No Report.

c. Report of the Personnel Committee – No Report.

d. Report of the Rules Committee – No Report.

6. **Officers Report**

a. Chair – Chair had no report.

b. Vice Chair – Commissioner Mikulina had no report.

c. Treasurer - Commissioner Myers had no report.

d. Secretary – Commissioner Pacopac absent.

7. **Announcements**

None.

8. **Next Meeting Schedule**

The next meeting was set for Tuesday, February 7, 2006 at 2:00 p.m. in the City Council Committee Room, Honolulu Hale Second Floor.

9. **Adjournment**

Commissioner Lendio moved to adjourn, Commissioner Mikulina seconded that motion. Meeting was adjourned at 6:00 p.m.